

**APPENDIX C**

**DEFINITIONS**

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### DEFINITIONS OF CERTAIN TERMS

*The following are definitions of certain of the terms used in the Indenture or the Loan Agreement and/or used in this Official Statement.*

“Act” means the Illinois Finance Authority Act, 20 Illinois Compiled Statutes 3501, as supplemented and amended.

“Adjustable Rate” means any interest rate to be borne by the Bonds other than the Fixed Interest Rate.

“Alternate Letter of Credit” means an effective irrevocable letter of credit authorizing drawings thereunder by the Trustee issued by a bank, a trust company or other financial institution and meeting the requirements of the Indenture, which Alternate Letter of Credit shall be the same in all material respects (except as to expiration date) as the Letter of Credit.

“Authenticating Agent” means the Trustee and the Registrar for the Bonds and any bank, trust company or other Person designated as an Authenticating Agent for the Bonds by or in accordance with the Indenture, each of which shall be a transfer agent registered in accordance with Section 17(A) of the Securities Exchange Act of 1934, as amended.

“Authorized Borrower Representative” means, initially, the President or the Vice President of the Corporation, and thereafter means any other person(s) designated at the time pursuant to the Loan Agreement to act on behalf of the Borrowers by written instrument furnished to the Issuer and the Trustee, containing the specimen signature of such person and signed by any officer of the Corporation. Such instrument may designate an alternate or alternates.

“Authorized Issuer Representative” means the Issuer’s Chairman, Vice Chairman, Interim Executive Director, Executive Director or Treasurer.

“Bank” means Charter One Bank, N.A., a national banking association, and its successors and assigns. Upon issuance and effectiveness of any Alternate Letter of Credit, “Bank” shall mean the issuer thereof and its successors and assigns.

“Beneficial Owner” means, with respect to the Bonds, a Person owning a Beneficial Ownership Interest therein, as evidenced to the satisfaction of the Trustee.

“Beneficial Ownership Interest” means the beneficial right to receive payments and notices with respect to the Bonds which are held by the Depository under a book-entry system.

“Bond Counsel” means an attorney-at-law or firm of attorneys (other than an employee of either of the Borrowers but including any law firm serving as counsel to the Borrowers) satisfactory to the Trustee, the Bank and the Issuer and nationally recognized as experienced in matters relating to the tax exemption of interest on bonds of states and political subdivisions.

“Bond Fund” means the Bond Fund created in the Indenture.

“Bond Purchase Date” means any Bond Purchase Date as defined and provided for in the Indenture.

“Bond Service Charges” means the principal of, premium, if any, and interest on the Bonds, for any period or payable at any time, whether due on an Interest Payment Date, at maturity or upon acceleration or redemption.

“Bonds” means the Illinois Finance Authority Variable Rate Demand Revenue Bonds, Series 2007A (Planned Parenthood/Chicago Area Project), in the original principal amount of \$8,050,000 authorized in the Bond Resolution and in the Indenture.

“Book-entry form” or “book-entry system” means, with respect to the Bonds, a form or system, as applicable, under which (a) the Beneficial Ownership Interests may be transferred only through a book-entry and (b) physical Bond certificates in fully registered form are registered only in the name of a Depository or its nominee as Holder, with the physical Bond certificates “immobilized” in the custody of the Depository. The book-entry system maintained by and the responsibility of the Depository and not maintained by or the responsibility of the Issuer or the Trustee is the record that identifies, and records the transfer of the interests of, the owners of book-entry interests in the Bonds.

“Borrowers” means the Corporation and Gemini.

“Borrowers Bonds” means Bonds purchased with moneys provided to the Trustee, or Beneficial Ownership Interests purchased with moneys provided to the Remarketing Agent, by the Borrowers, the Issuer, the Trustee or an agent of the Trustee for the account of the Borrowers or the Issuer, an affiliate of the Borrowers, or by any other person for the account of the Borrowers or the Issuer.

“Business Day” means any day of the year other than a Saturday or Sunday or a day on which banking institutions in the city in which the designated corporate trust office of the Trustee or the designated corporate trust office of the Paying Agent or the designated office of the Remarketing Agent is located, or in the city where draws on the Letter of Credit are presented, which initially is Medford, Massachusetts, are required or authorized by law to remain closed, or other than a day on which the payment system of the Federal Reserve System is not operational.

“Closing Date” means the date of delivery of and payment for the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended from time to time. References to the Code and Sections of the Code include relevant applicable regulations and proposed regulations thereunder (and under the related provisions of the Internal Revenue Code of 1954, as amended) and any successor provisions to those Sections, regulations or proposed regulations.

"Corporation" means Planned Parenthood/Chicago Area, an Illinois not for profit corporation, and its successors and assigns.

"Credit Agreement" means the Reimbursement Agreement dated as of May 1, 2007, between the Bank and the Borrowers, as amended and supplemented from time to time. Upon the issuance of any Alternate Letter of Credit, "Credit Agreement" shall mean the credit or similar agreement relating to such Alternate Letter of Credit, entered into between the Borrowers and the issuer of such Alternate Letter of Credit.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, with its participants or otherwise, a book-entry system to record ownership of book-entry interests in Bonds, and to effect transfers of book-entry interests in Bonds in book-entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

"Determination of Taxability" means and shall occur when (a) the Trustee receives written notice from the Corporation, supported by an opinion of Bond Counsel, that interest on the Bonds is includable in the gross income of Holders of the Bonds for federal income tax purposes or (b) the Internal Revenue Service shall claim in writing that interest on the Bonds is includable in the gross income of Holders of the Bonds for federal income tax purposes; provided, that such a claim shall not be deemed a Determination of Taxability unless the Borrowers are afforded reasonable opportunity (at the Borrowers' sole expense and for a period not to exceed two years) to pursue any judicial or administrative remedy available to the Borrowers with respect to such claim.

"Direct Participant" means a Participant as defined in the Letter of Representations.

"Eastern Standard Time" means the prevailing time in effect at any point in New York, New York.

"Eligible Funds" means amounts on deposit in the Bond Fund (other than funds derived from a draw on the Letter of Credit) for a continuous period of 124 consecutive days during which there shall not have occurred the filing of a voluntary or involuntary petition in bankruptcy under the United States Bankruptcy Code, 11 U.S.C. § 101 et seq. (as it may be amended from time to time), or the commencement of a proceeding under any other applicable laws concerning insolvency, reorganization or bankruptcy, by or against the Borrowers or the Issuer, unless such petition or proceeding shall have been dismissed and such dismissal shall be final and not subject to appeal.

"Eligible Investments" means:

- (a) Government Obligations;
- (b) Federal Home Loan Mortgage Corporation (FHLMC) and Farm Credit Banks (Federal Land Banks, Federal Intermediate Credit Banks and Banks for

Cooperatives) participation certificates and senior debt obligations which bear interest at a fixed rate and are fully amortizing;

(c) Federal National Mortgage Association's (FNMA) mortgage backed securities and senior debt obligations which bear interest at a fixed rate and are fully amortizing;

(d) Student Loan Marketing Association (Sallie Mae) letter of credit backed issues and senior debt obligations;

(e) federal funds, certificates of deposits, time deposits and bankers' acceptances (having original maturities of not more than 365 days) of any bank (including the Bank or an affiliate of the Bank) the unsecured, uninsured and unguaranteed debt obligations of which (or, in the case of a bank subsidiary in a bank holding company, debt obligations of the bank holding company) have been rated "AA" or "A-1" or its equivalent by the Rating Service at the time of purchase;

(f) commercial paper (having original maturities of not more than 270 days) rated "A-1" or its equivalent by the Rating Service at the time of purchase;

(g) obligations rated "AA" or its equivalent by the Rating Service, or unrated general obligations of any Person which has outstanding other unsecured, uninsured and unguaranteed obligations which are so rated by the Rating Service at the time of purchase;

(h) repurchase agreements with any institution the unsecured, uninsured and unguaranteed debt obligations of which (or, in the case of a bank subsidiary in a bank holding company, debt obligations of the bank holding company) are rated "AA" or its equivalent by the Rating Service at the time of purchase;

(i) tax-exempt obligations of any state of the United States of America or any political subdivision or other instrumentality of any such state and such obligations are rated in either of the two highest rating categories (i.e., "AA" or higher) of the Rating Service and are not "specified private activity bonds" as defined in Section 57(a)(5)(C) of the Code at the time of purchase;

(j) tax-exempt money market funds which are "qualified regulated investment companies" within the meaning of IRS Notice 87-22, dated October 25, 1987, and which meet the other requirements of IRS Notice 87-22 and any subsequent regulations necessary to exempt investments in such funds from the definition of "investment property" under Section 148 of the Code whose assets are solely invested in obligations rated in either of the two highest rating categories by the Rating Service at the time of purchase;

(k) money market funds, which funds may be funds managed by the Trustee or any affiliates of the Trustee, the assets of which are obligations of, or guaranteed by,

the United States of America or are repurchase agreements that are backed by obligations of, or guaranteed by, the United States of America and which funds are rated "Am" or "AmG" or higher by Moody's at the time of purchase;

(l) investment agreements, including guaranteed investment contracts, acceptable to the Bank; and

(m) obligations approved in writing by the Bank.

"Event of Default" means an Event of Default under the Indenture as described in the Indenture.

"Extraordinary Services" and "Extraordinary Expenses" means all services rendered and all reasonable expenses properly incurred by the Trustee under the Indenture, other than Ordinary Services and Ordinary Expenses.

"First Optional Redemption Date" means the January 1 occurring in the year which is a number of years after the Fixed Interest Rate Commencement Date equal to the number of full years between the Fixed Interest Rate Commencement Date and the maturity date of the Bonds, multiplied by one-half (1/2) and rounded up to the nearest whole number.

"Five Year Interest Rate" means (a) the rate of interest per annum determined by the Remarketing Agent, on the Interest Rate Determination Date immediately preceding the applicable Interest Rate Adjustment Date, to be the lowest interest rate, for the Interest Rate Period commencing on the applicable Interest Rate Adjustment Date and ending on the June 30 or December 31 nearest to but not later than the date which is five years from the Interest Rate Adjustment Date, in the judgment of the Remarketing Agent (taking into consideration current transactions and comparable securities with which the Remarketing Agent is involved or of which it is aware and prevailing financial market conditions) at which, as of such Interest Rate Determination Date, the Bonds could be remarketed at par, plus accrued interest (if any), on the Interest Rate Adjustment Date for that Interest Rate Period or (b) in the event that the Remarketing Agent has been removed or has resigned and no successor has been appointed or the Remarketing Agent has failed to determine the Five Year Interest Rate for whatever reason, or the Five Year Interest Rate cannot be determined pursuant to clause (a) for whatever reason, the interest rate then in effect with respect to the Bonds, without adjustment; provided that in no event shall the Five Year Interest Rate exceed the Maximum Rate.

"Fixed Interest Rate" means (a) the fixed rate of interest per annum determined by the Remarketing Agent, on the Interest Rate Determination Date immediately preceding the applicable Interest Period Reset Date, to be the lowest interest rate, for the period from the Interest Period Reset Date to the final maturity date of the Bonds, in the judgment of the Remarketing Agent (taking into consideration current transactions and comparable securities with which the Remarketing Agent is involved or of which it is aware and prevailing financial market conditions) at which, as of such Interest Rate Determination Date, the Bonds could be remarketed at par, plus accrued interest (if any), on the Interest Period Reset Date or (b) in the event that the Remarketing Agent has been removed or has resigned and no successor has been

appointed or the Remarketing Agent has failed to determine the Fixed Interest Rate for whatever reason, or the Fixed Interest Rate cannot be determined pursuant to clause (a) for whatever reason, the interest rate then in effect with respect to the Bonds, without adjustment; provided that in no event shall the Fixed Interest Rate exceed the Maximum Rate.

“Fixed Interest Rate Commencement Date” means the Interest Period Reset Date from and after which the Bonds shall bear interest at the Fixed Interest Rate, as that date shall be established as provided in the Indenture.

“Gemini” means Gemini Office Development LLC, an Illinois limited liability company.

“Government Obligations” means (a) direct noncallable obligations of the United States of America for the payment of which the full faith and credit of the United States of America is pledged, (b) obligations issued by a person controlled or supervised by and acting as an instrumentality of the United States of America, the payment of the principal of, premium, if any, and interest on which is fully guaranteed as a full faith and credit obligation of the United States of America (including any securities described in (a) or (b) issued or held in book-entry form on the books of the Department of Treasury of the United States of America or Federal Reserve Bank), and (c) securities which represent an interest in the obligations described in (a) and (b) above.

“Holder” or “Holder of a Bond” or “Bondholder” means the Person in whose name a Bond is registered on the Register.

“Indirect Participant” means a Person utilizing the book-entry system of the Depository by, directly or indirectly, clearing through or maintaining a custodial relationship with a Direct Participant.

“Indenture” means the Trust Indenture, between the Issuer and the Trustee, as amended or supplemented from time to time.

“Interest Payment Date” or “Interest Payment Dates” means (a) while the Bonds bear interest at the Six Month Interest Rate, the One Year Interest Rate, the Five Year Interest Rate or the Fixed Interest Rate, the first day of each January and July, and (b) while the Bonds bear interest at the Weekly Interest Rate, the One Month Interest Rate, or the Three Month Interest Rate, the first Business Day of each month commencing the first Business Day of June, 2007.

“Interest Period Reset Date” means the date on which the Interest Rate Mode on the Bonds converts from the Interest Rate Mode applicable to the Bonds prior to such date to a new Interest Rate Mode. An Interest Period Reset Date shall be the first Business Day of a month; provided that upon conversion from a Six Month, One Year or Five Year Interest Rate Mode, an Interest Period Reset Date shall be the first day of a month; and provided further, that except when converting from a Weekly Interest Rate Mode, an Interest Period Reset Date may not occur prior to the end of the preceding Interest Rate Period and shall be the first day or Business Day after the end of such preceding Interest Rate Period.

"Interest Rate Adjustment Date" means any date on which the interest rate on the Bonds may be adjusted, either as the result of the conversion of the interest rate on the Bonds to a different Interest Rate Mode, or by adjustment of the interest rate on the Bonds within the applicable Interest Rate Mode. Except as otherwise provided with respect to an Interest Rate Adjustment Date which is also an Interest Period Reset Date, an Interest Rate Adjustment Date shall be the first day of the first month of the Interest Rate Period if the Bonds bear interest at the Six Month, One Year or Five Year Interest Rates; the first Business Day of a month if the Bonds bear interest at the One Month or Three Month Interest Rates; and if the Bonds bear interest at the Weekly Interest Rate, then the Interest Rate Adjustment Date shall be Thursday of each week.

"Interest Rate Determination Date" means (a) with respect to the Three Month Interest Rate, the Six Month Interest Rate, the One Year Interest Rate, the Five Year Interest Rate and the Fixed Interest Rate, the tenth Business Day preceding an Interest Rate Adjustment Date, (b) with respect to the One Month Interest Rate, the seventh Business Day preceding an Interest Rate Adjustment Date, and (c) with respect to the Weekly Interest Rate, not later than 2:00 p.m. Eastern Standard Time on Wednesday of each week, or the next preceding Business Day if such Wednesday is not a Business Day; provided that upon any conversion to the Weekly Interest Rate from a different Interest Rate Mode, the first Interest Rate Determination Date shall mean not later than 2:00 p.m. Eastern Standard Time on the Business Day preceding the Interest Period Reset Date.

"Interest Rate for Advances" means a rate per annum which is equal to two percent (2.00%) per annum plus the Prime Rate.

"Interest Rate Mode" means any of those modes of interest with respect to the Bonds permitted by the Indenture, specifically, the Weekly Interest Rate, the One Month Interest Rate, the Three Month Interest Rate, the Six Month Interest Rate, the One Year Interest Rate, the Five Year Interest Rate and the Fixed Interest Rate.

"Interest Rate Period" means that period of time for which the interest rate with respect to the Bonds has been determined by the Remarketing Agent or otherwise as provided in the definition of the applicable Interest Rate Mode, commencing on the applicable Interest Rate Adjustment Date, and terminating on the day immediately preceding the following Interest Rate Adjustment Date.

"Issuer" or "Authority" means the Illinois Finance Authority, a body corporate and politic of the State of Illinois.

"Letter of Credit" means (a) the effective direct pay irrevocable letter of credit to be issued by the Bank and delivered to the Trustee on the same date as the initial delivery of the Bonds and being an irrevocable obligation to make payment to the Trustee of up to the amounts therein specified with respect to (i) the principal amount of the Bonds outstanding to enable the Trustee to pay (A) the principal amount of the Bonds when due at maturity or upon redemption or acceleration, and (B) an amount equal to the principal portion of the purchase price of any Bonds or Beneficial Ownership Interests tendered for purchase by the Holders or Beneficial

Owners thereof, plus (ii) the amount of interest due on the Bonds but not to exceed 45 days' accrued interest (or 195 days interest if the Bonds bear interest at the Six Month Interest Rate, the One Year Interest Rate, the Five Year Interest Rate or the Fixed Interest Rate) at the Maximum Rate to enable the Trustee to pay (A) interest on the Bonds when due and (B) an amount equal to the interest portion, if any, of the purchase price of any Bonds or Beneficial Ownership Interests tendered for purchase by the Holders or Beneficial Owners thereof; as the same may be transferred, reissued, extended, amended to change the interest coverage period as contemplated in the Indenture, or replaced in accordance with the Indenture, the Credit Agreement, and the Letter of Credit; and (b) upon the issuance and effectiveness thereof, any Alternate Letter of Credit.

"Letter of Credit Termination Date" means the expiration date of the Letter of Credit (presently May 23, 2012) or possibly earlier as provided therein, or of any Alternate Letter of Credit.

"Letter of Representations" means the Blanket Issuer Letter of Representations dated February 5, 2004, as supplemented, by and between the Issuer and the Depository.

"Loan" means the loan or loans by the Issuer to the Borrowers of the proceeds received from the sale of the Bonds.

"Loan Agreement" or "Agreement" means the Loan Agreement dated as of an even date with the Indenture, between the Issuer and the Borrowers, as amended or supplemented from time to time.

"Loan Payment Date" means any date on which any of the Loan Payments are due and payable, whether at maturity, upon acceleration, call for redemption or prepayment, or otherwise.

"Loan Payments" means the amounts required to be paid by the Borrowers in repayment of the Loan pursuant to the provisions of the Note and Article IV of the Loan Agreement.

"Mandatory Bond Purchase Date" means a Mandatory Bond Purchase Date as defined in the Indenture.

"Maximum Rate" means ten percent (10%) per annum.

"Moody's" means Moody's Investors Service, Inc., a Delaware corporation, and its successors and assigns.

"Note" means the promissory note of the Borrowers, dated as of even date with the Bonds initially issued, in the form attached to the Loan Agreement as Exhibit B and in the principal amount of \$8,050,000 evidencing the obligation of the Borrowers to make Loan Payments.

"One Month Interest Rate" means (a) the rate of interest per annum determined by the Remarketing Agent, on the Interest Rate Determination Date immediately preceding the

applicable Interest Rate Adjustment Date, to be the lowest interest rate, for the Interest Rate Period commencing on the applicable Interest Rate Adjustment Date to and including the day preceding the first Business Day of the next month, in the judgment of the Remarketing Agent (taking into consideration current transactions and comparable securities with which the Remarketing Agent is involved or of which it is aware and prevailing financial market conditions) at which, as of such Interest Rate Determination Date, the Bonds could be remarketed at par, plus accrued interest (if any), on the Interest Rate Adjustment Date for that Interest Rate Period or (b) in the event that the Remarketing Agent has been removed or has resigned and no successor has been appointed, or the Remarketing Agent has failed to determine the One Month Interest Rate for whatever reason, or the One Month Interest Rate cannot be determined pursuant to clause (a) for whatever reason, the interest rate then in effect with respect to the Bonds, without adjustment; provided that in no event shall the One Month Interest Rate exceed the Maximum Rate.

“One Year Interest Rate” means (a) the rate of interest per annum determined by the Remarketing Agent, on the Interest Rate Determination Date immediately preceding the applicable Interest Rate Adjustment Date, to be the lowest interest rate, for the Interest Rate Period commencing on the applicable Interest Rate Adjustment Date and ending on the June 30 or December 31 nearest to but not later than the date which is one year from the Interest Rate Adjustment Date, in the judgment of the Remarketing Agent (taking into consideration current transactions and comparable securities with which the Remarketing Agent is involved or of which it is aware and prevailing financial market conditions) at which, as of such Interest Rate Determination Date, the Bonds could be remarketed at par, plus accrued interest (if any), on the Interest Rate Adjustment Date for that Interest Rate Period or (b) in the event that the Remarketing Agent has been removed or has resigned and no successor has been appointed, or the Remarketing Agent has failed to determine the One Year Interest Rate for whatever reason, or the One Year Interest Rate cannot be determined pursuant to clause (a) for whatever reason, the interest rate then in effect with respect to the Bonds, without adjustment; provided that in no event shall the One Year Interest Rate exceed the Maximum Rate.

“Ordinary Services” and “Ordinary Expenses” means those services normally rendered, and those expenses normally incurred, by a trustee under instruments similar to the Indenture.

“Outstanding Bonds” or “Bonds outstanding” means, as of the applicable date, all Bonds which have been authenticated and delivered, or which are being delivered by the Trustee under the Indenture, except:

(a) Bonds canceled upon surrender, exchange or transfer, or canceled because of payment or redemption on or prior to that date;

(b) Bonds, or the portion thereof, the payment, redemption or purchase for cancellation of which sufficient money has been deposited and credited with the Trustee or any Paying Agents pursuant to the Indenture on or prior to that date for that purpose (whether upon or prior to the maturity or redemption date of those Bonds); provided, that if any of those Bonds are to be redeemed prior to their maturity, notice of that redemption shall have been given or arrangements satisfactory to the Trustee shall have been made for giving notice of that

redemption, or waiver by the affected Holders of that notice satisfactory in form to the Trustee shall have been filed with the Trustee;

(c) Bonds, or the portion thereof, which are deemed to have been paid and discharged or caused to have been paid and discharged pursuant to the provisions of the Indenture; and

(d) Bonds in lieu of which others have been authenticated under the Indenture; provided that, in determining whether the Holders of the requisite percentage of Bonds have concurred in any demand, direction, request, notice, consent, waiver or other action under the Indenture, Bonds that are owned by the Borrowers or any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Borrowers shall be regarded and deemed not to be outstanding for the purpose of any such determination; provided that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, consent or waiver, only such Bonds which the Trustee knows are so owned shall be disregarded. Bonds so owned that have been pledged in good faith may be regarded as Outstanding for such purpose, if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Bonds and the pledgee is not a Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Borrowers. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

"Paying Agent" means any bank or trust company designated as a Paying Agent by or in accordance with the Indenture.

"Person" or words importing persons means firms, associations, corporations, partnerships (including without limitation, general and limited partnerships), joint ventures, societies, estates, trusts, corporations, public or governmental bodies, other legal entities and natural persons.

"Pledged Bonds" means Bonds or Beneficial Ownership Interests registered or recorded in the name of the Borrowers or their designee, as requested by the Bank, and securing obligations of the Borrowers under the Credit Agreement as provided in the Indenture.

"Predecessor Bond" of any particular Bond means every previous Bond evidencing all or a portion of the same debt as that evidenced by the particular Bond. For the purposes of this definition, any Bond authenticated and delivered under the Indenture in lieu of a lost, stolen or destroyed Bond shall, except as otherwise provided in the Indenture, be deemed to evidence the same debt as the lost, stolen or destroyed Bond.

"Prime Rate" means a variable per annum rate of interest equal at all times to the rate of interest established and quoted by the Bank as its "Prime Rate," such rate to change contemporaneously with each change in such established and quoted rate, provided that it is understood that the Prime Rate shall not necessarily be representative of the rate of interest actually charged by the Bank on any loan or class of loans.

“Project” means the facilities identified in Exhibit A attached to the Loan Agreement, which facilities are being acquired, constructed, expanded, renovated and equipped in whole or in part with a portion of the proceeds of the Bonds or the costs of which are being refinanced with proceeds of the Bonds.

“Project Fund” means the Project Fund created pursuant to the Indenture.

“Rating Service” means Moody’s.

“Rebate Fund” means the Rebate Fund created pursuant to the Indenture.

“Register” means the books kept and maintained by the Registrar for registration and transfer of Bonds pursuant to the Indenture.

“Registrar” means the Trustee until a successor Registrar shall have become such pursuant to applicable provisions of the Indenture.

“Regular Record Date” means, with respect to any Bond, the Business Day next preceding an Interest Payment Date applicable to that Bond.

“Remarketing Agent” means, initially, RBC Dain Rauscher, Inc., doing business under the name RBC Capital Markets, and any Person meeting the qualifications of the Indenture and designated from time to time to act as Remarketing Agent under the Indenture.

“Remarketing Agreement” means the Remarketing Agreement between the Borrowers and the Remarketing Agent.

“Remarketing Reimbursement Fund” means the Remarketing Reimbursement Fund created in the Indenture.

“Revenues” means (a) the Loan Payments, (b) all of the moneys received or to be received by the Issuer or the Trustee in respect of repayment of the Loan, (c) all moneys and investments in the Bond Fund, including without limitation moneys received by the Trustee under or pursuant to the Letter of Credit, (d) any moneys and investments in the Project Fund, and (e) all income and profit from the investment of the foregoing moneys.

“Six Month Interest Rate” means (a) the rate of interest per annum determined by the Remarketing Agent, on the Interest Rate Determination Date immediately preceding the applicable Interest Rate Adjustment Date, to be the lowest interest rate, for the Interest Rate Period commencing on the applicable Interest Rate Adjustment Date and ending on the June 30 or December 31 nearest to but not later than the date which is six months from the Interest Rate Adjustment Date, in the judgment of the Remarketing Agent (taking into consideration current transactions and comparable securities with which the Remarketing Agent is involved or of which it is aware and prevailing financial market conditions) at which, as of such Interest Rate Determination Date, the Bonds could be remarketed at par, plus accrued interest (if any), on the Interest Rate Adjustment Date for that Interest Rate Period or (b) in the event that the

Remarketing Agent has been removed or has resigned and no successor has been appointed, or the Remarketing Agent has failed to determine the Six Month Interest Rate for whatever reason, or the Six Month Interest Rate cannot be determined pursuant to clause (a) for whatever reason, the interest rate then in effect with respect to the Bonds, without adjustment; provided that in no event shall the Six Month Interest Rate exceed the Maximum Rate.

“Special Record Date” means, with respect to any Bond, the date established by the Trustee in connection with the payment of overdue interest on that Bond pursuant to the Indenture.

“State” means the State of Illinois.

“Supplemental Credit Facility” means a credit facility, agreement or arrangement in addition to the Letter of Credit, including, without limitation, a bond insurance policy, collateral arrangement, surety bond, standby placement agreement or similar arrangement, the purpose of which is to enhance the credit of the Bonds in order to obtain or maintain a rating on the Bonds.

“Supplemental Indenture” means any indenture supplemental to the Indenture entered into between the Issuer and the Trustee in accordance with Article VIII of the Indenture.

“Tax Certificate” means the Tax Compliance Certificate of the Borrowers delivered in connection with the initial issuance and delivery of the Bonds.

“Three Month Interest Rate” means (a) the rate of interest per annum determined by the Remarketing Agent, on the Interest Rate Determination Date immediately preceding the applicable Interest Rate Adjustment Date, to be the lowest interest rate, for the Interest Rate Period commencing on the applicable Interest Rate Adjustment Date to and including the day preceding the first Business Day of the January, April, July or October nearest to but not later than the date which is three months from the Interest Rate Adjustment Date, in the judgment of the Remarketing Agent (taking into consideration current transactions and comparable securities with which the Remarketing Agent is involved or of which it is aware and prevailing financial market conditions) at which, as of such Interest Rate Determination Date, the Bonds could be remarketed at par, plus accrued interest (if any), on the Interest Rate Adjustment Date for that Interest Rate Period or (b) in the event that the Remarketing Agent has been removed or has resigned and no successor has been appointed, or the Remarketing Agent has failed to determine the Three Month Interest Rate for whatever reason, or the Three Month Interest Rate cannot be determined pursuant to clause (a) for whatever reason, the interest rate then in effect with respect to the Bonds, without adjustment; provided that in no event shall the Three Month Interest Rate exceed the Maximum Rate.

“Trustee” means the Trustee at the time acting as such under the Indenture, originally Amalgamated Bank of Chicago, as Trustee, and any successor Trustee as determined or designated under or pursuant to the Indenture.

“Unassigned Issuer’s Rights” means all of the rights of the Issuer to receive Additional Payments under the Loan Agreement, to inspect the Project under the Loan Agreement, to be

held harmless and indemnified under the Loan Agreement, to enforce the Unassigned Issuer's Rights under the Loan Agreement, to be reimbursed for attorney's fees and expenses under the Loan Agreement, and to give or withhold consent to amendments, changes, modifications, alterations and termination of the Agreement under the Loan Agreement.

"Underwriter" means RBC Dain Rauscher, Inc., doing business under the name RBC Capital Markets.

"Weekly Interest Rate" means (a) the rate of interest per annum determined by the Remarketing Agent on the Interest Rate Determination Date immediately preceding the applicable Interest Rate Adjustment Date, to be the lowest interest rate, for the Interest Rate Period of one week (or less in the case of any such Interest Rate Period commencing on an Interest Period Reset Date which is not a Thursday or ending on the day preceding an Interest Period Reset Date) commencing on the applicable Interest Rate Adjustment Date, in the judgment of the Remarketing Agent (taking into consideration current transactions and comparable securities with which the Remarketing Agent is involved or of which it is aware and prevailing financial market conditions) at which, as of such Interest Rate Determination Date, the Bonds could be remarketed at par, plus accrued interest (if any), on the Interest Rate Adjustment Date for that Interest Rate Period or (b) in the event that the Remarketing Agent has been removed or has resigned and no successor has been appointed, or the Remarketing Agent has failed to determine the Weekly Interest Rate for whatever reason, or the Weekly Interest Rate cannot be determined pursuant to clause (a) for whatever reason, the interest rate then in effect with respect to the Bonds, without adjustment; provided that in no event shall the Weekly Interest Rate exceed the Maximum Rate.

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**APPENDIX D**

**SUMMARY OF THE LOAN AGREEMENT AND THE INDENTURE**

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## **SUMMARY OF THE LOAN AGREEMENT**

*The following summarizes certain provisions of the Loan Agreement between the Issuer and the Borrowers. Reference is hereby made to the Loan Agreement for the detailed provisions thereof.*

### **Issuance of the Bonds and Use of Bond Proceeds**

Under the Loan Agreement, the Issuer agrees to issue the Bonds and to loan the proceeds thereof to the Borrowers. Such proceeds will be deposited in the Project Fund and used (together with other available funds) to pay costs of issuance of the Bonds, to pay costs of credit enhancement, and to finance or refinance all or a portion of the costs of the Project. See "ESTIMATED SOURCES AND USES" herein.

### **Payments by the Borrower**

The Borrowers agree to make payments corresponding, as to amount, to debt service payments on the Bonds and agree to make such payments at the times required by the Loan Agreement and the Note delivered to the Trustee in connection with issuance of the Bonds. The Borrowers' obligation to make such payments will be absolute and unconditional.

### **Prepayment under the Note**

Optional Prepayment. The Borrower is given options in the Note to prepay the amounts payable thereunder. Such prepayment options correspond to the optional redemption provisions applicable to the Bonds. See "THE BONDS – Redemption Prior to Maturity – Optional Redemption" herein.

Mandatory Prepayment. The Borrower is obligated under the Note to prepay the amounts payable thereunder in full upon the occurrence of certain conditions. Such prepayment obligations correspond to the mandatory redemption provisions applicable to the Bonds in such cases. See "THE BONDS – Redemption Prior to Maturity – Mandatory Redemption" herein.

### **Tax-Exempt Status of Bonds**

The Borrowers make various representations, warranties and covenants designed to ensure that interest on the Bonds will be and remain excluded from the gross income of the Holders for federal income tax purposes.

### **Events of Default**

The Loan Agreement provides that each of the following is an "Event of Default":

(a) The Borrowers fail to pay when due any Loan Payment;

(b) Any representation or warranty by the Borrowers contained in the Loan Agreement or in any certificate or instrument delivered by the Borrowers pursuant to the Loan Agreement or in connection with the issuance of the Bonds is false or misleading in any material respect;

(c) The Borrowers fail to observe and perform any agreement, term or condition contained in the Loan Agreement, and the continuation of such failure for a period of 30 days after notice thereof has been given to the Borrowers by the Issuer or the Trustee, or for such longer period as the Issuer and the Trustee may agree to in writing; provided, that if the failure is other than the payment of money and is of such nature that it can be corrected but not within the applicable period, that failure will not constitute an Event of Default so long as the Borrowers institute curative action within the applicable period and diligently pursue that action to completion; and provided further that no such failure will constitute an Event of Default solely because it results in a Determination of Taxability;

(d) The Borrowers: (i) admit in writing their inability to pay their debts generally as they become due; (ii) have an order for relief entered in any case commenced by or against them under the federal bankruptcy laws, as now or hereafter in effect; (iii) commence a proceeding under any other federal or state bankruptcy, insolvency, reorganization or similar law, or have such a proceeding commenced against them and either have an order of insolvency or reorganization entered against them or have the proceeding remain undismissed and unstayed for 90 days; (iv) make an assignment for the benefit of creditors; or (v) have a receiver or trustee appointed for them or for the whole or any substantial part of their property;

(e) There occurs an "Event of Default" as defined in the Indenture.

Notwithstanding the foregoing, if, by reason of Force Majeure (defined in the Loan Agreement to include various events, causes and circumstances not reasonably within the control of the Borrowers), the Borrowers are unable to perform or observe any agreement, term or condition in the Loan Agreement which would give rise to an Event of Default under paragraph (c) above (provided that such failure is other than the payment of money), the Borrowers will not be deemed in default during the continuance of such inability. However, the Borrowers must promptly give notice to the Trustee and the Issuer of the existence of an event of Force Majeure and will use its best efforts to remove the effects thereof; provided that the settlement of strikes or other industrial disturbances will be entirely within the Borrowers' discretion.

The provisions of paragraph (d) above are subject to the condition that the declaration of an Event of Default due to any of the facts or circumstances specified therein, and the exercise of remedies upon any such declaration, will be subject to any applicable limitations of federal bankruptcy law affecting or precluding such declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings.

## **Remedies**

If any Event of Default occurs and continues, any one or more of the following remedial steps may be taken: (i) if and only if the payment of the Bonds is accelerated pursuant to the Indenture, the Trustee must declare all payments payable by the Borrowers under the Loan Agreement and the Note to be immediately due and payable, (ii) the Bank or the Trustee may have access to inspect, examine, and make copies of the books, records, accounts and financial data of the Borrowers pertaining to the Project, and (iii) the Issuer or the Trustee may pursue any remedies at law or in equity to collect all amounts then due and thereafter to become due under the Loan Agreement, the Letter of Credit or the Note, or to enforce the performance and observance of any other obligation or agreement of the Borrowers under those instruments.

## **Amendments, Changes and Modifications of the Loan Agreement, the Note or the Letter of Credit**

The Loan Agreement, the Note or the Letter of Credit may only be amended as permitted by the Indenture. As provided in the Indenture, without the consent of or notice to the Holders of Bonds, but with the written consent of the Bank, the Issuer and the Trustee may consent that the Loan Agreement, the Note or the Letter of Credit may be amended, changed or modified as may be required (i) by the provisions of the Loan Agreement, the Note, the Letter of Credit or the Indenture, (ii) for the purpose of curing any ambiguity, inconsistency or formal defect or omission in the Loan Agreement, the Note, the Letter of Credit or the Indenture, (iii) in connection with an amendment or to effect any purpose for which there could be an amendment of the Indenture without Holder consent, or (iv) in connection with any other change therein which, in the judgment of the Trustee, having relied on an opinion of counsel, is not to the material prejudice of the Trustee or the Holders of any Bonds; provided that if the Bonds are then rated by a Rating Service, no amendment, change or modification of the Letter of Credit shall be consented to by the Trustee unless such Rating Service shall have confirmed in writing that such rating will not be reduced or withdrawn if such amendment, change or modification is made. Except for such amendments, changes or modifications above, neither the Issuer nor the Trustee will consent to (i) any amendment, change or modification of the Loan Agreement, the Note, or the Letter of Credit which would change the amount or times of payments to be made by the Borrower under the Loan Agreement or the Note or drawings to be paid under the Letter of Credit without the giving of notice as provided in the Indenture and the receipt of written consent thereto of the Bank and the Holders of the then outstanding Bonds affected by such amendment, change or modification or (ii) any other amendment, change or modification of the Loan Agreement, the Note or the Letter of Credit, without the giving of notice as provided in the Indenture and the receipt of written consent thereto of the Bank and of the Holders of at least a majority in aggregate principal amount of Bonds then outstanding affected by such amendment, change or modification.

## SUMMARY OF THE INDENTURE

*The following, in addition to the information provided in the front of this Official Statement under "THE BONDS," summarizes certain provisions of the Indenture between the Issuer and the Trustee. Reference is made to the Indenture for the detailed provisions thereof.*

### Assignment and Security

In the Indenture, the Issuer will assign to the Trustee its right, title and interest in and to the Loan Agreement (excluding the rights of the Issuer with respect to certain fees, expenses, reimbursement, indemnity and consent provisions), the Revenues and the Note.

#### Application of Project Fund

All moneys received upon the sale of the Bonds will be deposited in the Project Fund created by the Indenture and disbursed from the Project Fund, in accordance with the provisions of the Loan Agreement, to pay costs of issuance of the Bonds, to pay costs of credit enhancement, to finance the refunding the Prior Bonds, to refinance the Interim Debt, and to finance or refinance all or a portion of the costs of the Project. See "ESTIMATED SOURCES AND USES" herein.

### Revenues and Bond Fund

Any amounts which are to be applied to the payment of Bond Service Charges on the Bonds, including all Revenues, other than Bond proceeds (if any deposited in the Project Fund), all moneys received upon drawings for such purpose made under the Letter of Credit, and any other amounts which, under the terms of the Indenture, the Note, the Loan Agreement, the Credit Agreement, or the Letter of Credit are to be applied to the payment of Bond Service Charges will be deposited in the Bond Fund created by the Indenture and maintained with the Trustee. Moneys in the Bond Fund are to be used for the payment of Bond Service Charges on the Bonds and for redemption of Bonds prior to maturity in the following order:

1. Amounts drawn by the Trustee under the Letter of Credit (provided that no amount drawn on the Letter of Credit may be used to pay any premium on the Bonds);
2. Any Eligible Funds on deposit in the Bond Fund; and
3. Any other amounts available in the Bond Fund.

Amounts remaining in the Bond Fund after payment or provision for payment of all Bond Service Charges are to be paid to the Bank or, if no amounts are then due under the Credit Agreement, to the Borrowers.

**Remarketing Reimbursement Fund**

The Indenture creates the Remarketing Reimbursement Fund, to be held by the Trustee and administered in accordance with the terms of the Indenture for the deposit of amounts derived from the remarketing of Bonds or Beneficial Ownership Interests or from the payment of the purchase price of tendered Bonds or Beneficial Ownership Interests by the Bank under the Letter of Credit. While the Bonds are Outstanding, moneys in the Remarketing Reimbursement Fund will be used solely for the payment of the purchase price of Bonds or Beneficial Ownership Interests upon their optional or mandatory tender for purchase, and are not subject to the lien of the Indenture.

**Rebate Fund**

The Indenture creates the Rebate Fund to be held by the Trustee for the deposit of amounts required to make payments to the United States federal government in satisfaction of the arbitrage rebate requirements under Section 148 of the Code. Although moneys deposited with or paid to the Trustee for the account of the Rebate Fund are required to be held by the Trustee in trust, such moneys are not subject to the lien of the Indenture.

The amounts on deposit in the Rebate Fund will not be part of the Revenues assigned under the Indenture to the Trustee.

**Investment of Funds**

Moneys held in the above described Funds (other than moneys in the Remarketing Reimbursement Fund or moneys in the Bond Fund from drawings under the Letter of Credit, which moneys may not be invested) are to be invested by the Trustee at the written direction of the Authorized Borrower Representative, in Eligible Investments as defined in APPENDIX C.

The Trustee must hold and control all investments of moneys in the Rebate Fund, the Project Fund or the Bond Fund and interest accruing thereon and any profit realized from such investments will be credited, and any loss will be charged, to the particular fund from which the investment was made.

Investment of moneys in the Bond Fund shall mature or be redeemable without penalty at the option of the Trustee at the times and in the amounts necessary to provide moneys to pay Bond Service Charges as they become due at stated maturity, by redemption or pursuant to any mandatory sinking fund requirements. Each investment of moneys in the Project Fund, the Bond Fund and the Rebate Fund shall mature or be redeemable without penalty at such time as may be necessary to make payments when necessary from such fund.

The Trustee may sell Project Fund, Rebate Fund and Bond Fund investments and reinvest the proceeds therefrom in Eligible Investments maturing or redeemable as aforesaid. Any of those investments may be purchased from or sold to the Trustee, the Registrar, an Authenticating Agent, a Paying Agent, a Remarketing Agent or any bank, trust company or savings and loan

association affiliated with any of the foregoing. The Trustee shall sell or redeem investments credited to the Bond Fund at the best price reasonably obtainable to and at the times required for the purposes of paying Bond Service Charges when due as aforesaid, and shall do so without necessity for any order on behalf of the Issuer and without restriction by reason of any order. An investment made from moneys credited to the Bond Fund, the Project Fund or the Rebate Fund will constitute part of that respective fund, and each respective fund will be credited with all proceeds of sale and income from investment of moneys credited thereto.

### **Events of Default and Remedies**

The Indenture provides that each of the following is an "Event of Default":

- (a) Failure to pay when due any interest on any Bond.
- (b) Failure to pay when due principal of or premium, if any, on any Bond whether at the stated maturity thereof, by redemption pursuant to any mandatory sinking fund requirements, by acceleration or otherwise.
- (c) Failure to pay on a Bond Purchase Date or a Mandatory Bond Purchase Date amounts due to the Holder of any Bonds, or to the Beneficial Owners of any Beneficial Ownership Interests, tendered or deemed tendered to the Trustee pursuant to the Indenture. See "THE BONDS – Purchase of Bonds or Beneficial Ownership Interests on Demand of Holders or Beneficial Owners," "Mandatory Tender for Purchase of Bonds or Beneficial Ownership Interests Upon Conversion Between Modes," "Mandatory Tender for Purchase of Bonds or Beneficial Ownership Interests Upon Delivery of an Alternate Letter of Credit" and "Mandatory Tender for Purchase of Bonds or Beneficial Ownership Interests Upon Expiration of the Letter of Credit or Alternate Letter of Credit."
- (d) Failure by the Issuer to observe or perform any other covenant, agreement or obligation on its part to be observed or performed contained in the Indenture or the Bonds, which failure has continued for a period of thirty (30) days after written notice, by registered or certified mail, to the Issuer, the Bank and the Borrowers specifying the failure and requiring that it be remedied, which notice may be given by the Trustee in its discretion and must be given by the Trustee at the written request of the Bank or the Holders of not less than twenty-five percent (25%) in the aggregate principal amount of Bonds then Outstanding.
- (e) The occurrence and continuation of an Event of Default under the Loan Agreement.
- (f) Receipt by the Trustee of a written notice from the Bank which states that an Event of Default under the Credit Agreement has occurred and is continuing and directing the Trustee to accelerate the maturity of the Bonds. See "THE LETTER OF CREDIT AND THE CREDIT AGREEMENT – Credit Agreement" herein.

(g) Failure of the Bank to honor any properly presented and conforming drawing made in accordance with the terms of the Letter of Credit.

(h) Certain events of insolvency relating to the Bank.

(i) Receipt by the Trustee of written notice from the Bank by the close of business on the fifth business day following the date of any interest drawing on the Letter of Credit that the amount available to be drawn by the Trustee under the Letter of Credit has not been reinstated to an amount not less than 100% of the outstanding principal of the Bonds, plus interest on the Bonds at the Maximum Rate of 10% per annum for a period of 45 days, or 195 days if the Interest Rate Mode on the Bonds is six months or longer computed at the Maximum Rate, due to the fact that the Bank has not been reimbursed in full for any interest drawing under the Letter of Credit or any other event of default under the Credit Agreement has occurred.

Upon the occurrence of an Event of Default under items (a), (b), (c), (f), (g) or (i), described above, the Trustee immediately will declare the principal of and accrued interest on all outstanding Bonds (if not then due and payable) to be immediately due and payable. Upon the occurrence of any other Event of Default (except an Event of Default specified in (h) described above), the Trustee must, upon the written direction of the Bank, declare the principal of and accrued interest on all outstanding Bonds to be immediately due and payable.

In addition, upon the occurrence and continuance of an Event of Default, the Trustee may pursue any available remedy to remedy any Event of Default or to enforce the observance and performance of any other covenant, agreement or obligation of the Indenture, the Loan Agreement, the Note, or any other instrument providing security for the Bonds; provided, however, that the Trustee may not pursue any such remedy without the prior written consent of the Bank so long as no Event of Default described in (g) or (h) above has occurred and is continuing.

The Trustee will also be empowered to enforce each and every right granted to it under the Loan Agreement as assigned to it.

### **Right of Holders to Direct Proceedings**

The Holders of at least a majority in aggregate principal amount of Bonds then outstanding will have the right at any time, by an instrument or document or instruments or documents in writing executed and delivered to the Trustee, to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of the Indenture or any other proceedings under the Indenture, provided, that such direction will not be otherwise than in accordance with the provisions of law and the Indenture, that the Trustee shall be indemnified to its satisfaction and the Trustee may take any other action which it deems to be proper and which is not inconsistent with the direction; provided, however, that so long as no Event of Default described in clause (g) above under the heading "Events of Default and Remedies" has occurred and is continuing, the Bank will have the exclusive right to give such directions to the Trustee.

### **Waivers of Events of Default**

At any time, in its discretion, the Trustee, but only with the express written consent of the Bank (other than in the case of an Event of Default described in items (a), (b), (c), (g) or (h) above) under the heading "Events of Default and Remedies," may waive an Event of Default and its consequences and may rescind and annul any declaration of maturity of principal of the Bonds. The Trustee must do so upon the written request of the Bank (other than in the case of an Event of Default described in items (a), (b), (c), (g) or (h) above under the heading "Events of Default and Remedies"). Notwithstanding the foregoing, prior to waiving any Event of Default resulting in a draw on the Letter of Credit, the Trustee must receive (i) written confirmation from the Bank that the Letter of Credit has been reinstated to an amount not less than 100% of the outstanding principal of the Bonds, plus interest on the Bonds at the maximum rate of 10% per annum for a period of 45 days, or 195 days if the Interest Rate Mode on the Bonds is six months or longer, and (ii) written notice from the Bank rescinding any prior written notice of default delivered pursuant to item (f) or item (i) above under the heading "Events of Default and Remedies," and further rescinding any corresponding expiration of the Letter of Credit triggered by such prior notice of default.

There may not be waived, however, any Event of Default described in items (a), (b), (c), (g) or (h) above under the heading "Events of Default and Remedies" or any declaration of acceleration in connection therewith rescinded or annulled except with the written consent of the Holders of all Bonds then outstanding and of the Bank. In the case of such waiver or rescission and annulment, or in case any suit, action or proceedings taken by the Trustee on account of any Event of Default has been discontinued, abandoned, or determined adversely to it, the Issuer, the Trustee, the Bank and the Holders will be restored to their former positions and rights under the Indenture, respectively. No waiver or rescission will extend to any subsequent or other Event of Default or impair any right consequent thereon.

### **Applications of Moneys Received Pursuant to Right of Action Taken**

All moneys received by the Trustee after an event of default and derived from any drawing made upon the Letter of Credit, proceeds from the remarketing and any monies held for the purchase and redemption of the Bonds not presented when required, will be applied by the Trustee only to the payment of principal of or interest on the Bonds. Subject to the foregoing, all money received by the Trustee from remedial action taken will be applied to the payment of the costs and expenses of the proceedings resulting in the collection of such money, and the balance of such money will be deposited in the Bond Fund and applied to the payment of Bond Service Charges on the Bonds in the manner and in order of priority set forth in the Indenture.

### **Rights and Remedies of Holders**

No Holder of any Bond will have any right to institute any suit, action or proceeding for the enforcement of the Indenture or for the execution of any trust under the Indenture or any remedy under the Indenture, unless (i) an Event of Default has occurred and is continuing of which the Trustee has been notified or of which it is deemed to have notice, and (ii) the Holders

of not less than 25% in aggregate principal amount of the Bonds have made written request to the Trustee and have afforded the Trustee reasonable opportunity to proceed to exercise the powers provided in the Indenture or to institute such action, suit or proceeding and have offered to the Trustee indemnity as provided for in the Indenture, and (iii) the Trustee thereafter has failed or refused to exercise its powers under the Indenture or to institute such action, suit or proceeding in its own name; provided, however, no Holder may institute any suit, action or proceeding at law or in equity for the enforcement of the Indenture or the enforcement of any remedy thereunder unless an Event of Default described in (g) or (h) above under the heading "Events of Default and Remedies" has occurred and is continuing.

### **Supplemental Indentures**

The Issuer and the Trustee, with the prior consent of the Borrowers and the Bank, may enter into supplemental indentures, without the consent of or notice to any of the Holders, for any one or more of the following purposes: (a) to cure any ambiguity, inconsistency or formal defect or omission in the Indenture; (b) to grant to or confer upon the Trustee additional rights, remedies, powers or authority for the benefit of the Holders; (c) to assign additional revenues under the Indenture; (d) to accept additional security and instruments and documents of further assurance with respect to the Project; (e) to add to the covenants, agreements and obligations of the Issuer contained in the Indenture other covenants, agreements and obligations thereafter to be observed for the protection of the Holders, or to surrender or limit any right, power or authority reserved to or conferred upon the Issuer in the Indenture including, without limitation, the limitation of rights of redemption so that in certain instances Bonds of different series will be redeemed in some prescribed relationship to one another for the protection of the Holders of a particular series of Bonds; (f) to evidence any succession to the Issuer and the assumption by such successor of the covenants, agreements and obligations of the Issuer contained in the Indenture, the Loan Agreement and the Bonds; (g) to permit the exchange of Bonds, at the option of the Holder or Holders thereof, for coupon Bonds of the same series payable to bearer, in an aggregate principal amount not exceeding the unmatured and unredeemed principal amount of the Predecessor Bonds (as defined in the Indenture), bearing interest at the same rates and maturing on the same date or dates, with coupons attached representing all unpaid interest due or to become due thereon if, in the opinion of Bond Counsel selected by the Borrowers and acceptable to the Trustee, if that exchange would not result in the interest on any of the Bonds outstanding becoming included in the gross income of the Holders for federal income tax purposes; (h) to permit the Trustee to comply with any obligations imposed upon it by law; (i) to specify further the duties and responsibilities of, and to define further the relationship among, the Trustee, the Registrar, the Remarketing Agent and any Paying Agent or Authenticating Agent; (j) to achieve compliance of the Indenture with any applicable federal securities or tax law; (k) to evidence the appointment of a new Remarketing Agent; (l) to permit any other amendment which, in the judgment of the Trustee, having relied on an opinion of counsel, is not to the material prejudice of the Trustee or the Holders, including, but not limited to, changes required in order to obtain or maintain a rating on the Bonds from a Rating Service; and, (m) to accept a Supplemental Credit Facility as described in the Indenture (provided that the Trustee is required to notify the Holders 30 days prior to the effectiveness of any Supplemental Credit Facility).

Exclusive of supplemental indentures for the purposes above summarized, the consent of the Borrowers, the Bank and the Holders of not less than a majority in aggregate principal amount of the Bonds then outstanding will be required to approve any indenture supplementing the Indenture provided that: (i) without the consent of the Holder of each Bond affected and the Bank, no supplemental indenture may permit an extension of the maturity of the principal of or the interest on any Bond, or a reduction in principal amount of any Bond or the rate of interest or redemption premium on any Bond, or a reduction in the amount or extension of the time of any payment required by any mandatory sinking-fund requirements of the Indenture, and (ii) without the consent of the Holders of all Bonds then Outstanding and the Bank, no supplemental indenture may permit the creation of a privilege or priority of any Bond over any other Bond, or a reduction in the aggregate principal amount of Bonds required for consent to such supplemental indenture.

### **Discharge of Lien**

The lien of the Indenture will be discharged if the Issuer pays or causes to be paid and discharged all the outstanding Bonds or there will otherwise be paid to the Holders of the outstanding Bonds all Bond Service Charges due or to become due thereon, and provisions have also been made for paying all other amounts payable under the Indenture, the Loan Agreement and the Note.

Any Bond will be deemed to be paid and discharged for all purposes of the Indenture when payment of the principal of and premium, if any, on such Bond, plus interest thereon to the due date thereof (whether such due date is by reason of maturity or upon redemption as provided in the Indenture) has been made or caused to be made with funds available therefor on deposit in the Bond Fund (as defined in the Indenture) in accordance with the terms thereof. All the outstanding Bonds will be deemed to have been paid and discharged within the meaning of the Indenture if (a) the Trustee and any Paying Agent have received and hold in trust irrevocably committed for such payment, sufficient moneys which are Eligible Funds or the proceeds of drawings under the Letter of Credit used to make such payment, or other moneys accompanied by an opinion of bankruptcy counsel in a form acceptable to the Trustee and the Rating Service, if any, for the Bonds, or (b) the Trustee holds in trust, irrevocably committed for such payment, direct noncallable Government Obligations (purchased with Eligible Funds or the proceeds of drawings under the Letter of Credit or other moneys if accompanied by an opinion of bankruptcy counsel in a form acceptable to the Trustee and the Rating Service if any, for the Bonds), certified by an independent public accounting firm of national reputation to be of such maturities or redemption dates and interest payment dates and to bear such interest as will, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom, be sufficient together with moneys referred to in (a) above, for the payment, at their maturities or redemption date, of all payments of Bond Service Charges on those Bonds, on and to the next Interest Rate Adjustment Date, or prior redemption dates, as the case may be; provided that if any Bonds are to be redeemed prior to the maturity thereof, notice of such redemption has been duly given or irrevocable provision satisfactory to the Trustee has been duly made for the giving of such notice; and further provided that the Bonds will not be deemed to be paid and discharged within the meaning of this paragraph (i) if the Interest Rate Mode of such Bonds is other than the Fixed Interest Rate, unless such Bonds are to be redeemed on or prior to

the next Interest Rate Adjustment Date for such Bonds and notice of that redemption has been duly given or irrevocable provision satisfactory to the Trustee has been duly made for the giving of that notice, or (ii) if they bear interest at the Weekly Interest Rate. Any moneys so held by the Trustee may be invested by the Trustee, but only in Government Obligations, the maturities or redemption dates of which, at the option of the Holder, will be not later than the date or dates at which said moneys will be required for the aforesaid purposes.

Notwithstanding anything in the Indenture to the contrary, if any Bonds are then rated by a Rating Service, no such Bonds will be deemed to have been paid and discharged by reason of any deposit pursuant to paragraphs (a) and/or (b) above (other than any deposit of moneys, or Government Obligations purchased with moneys, which are the proceeds of drawings under the Letter of Credit) unless each such Rating Service has confirmed in writing to the Trustee that its rating will not be withdrawn or lowered as the result of any such deposit.

#### Unclaimed Moneys

In the event of nonpresentment of Bonds or uncashed checks or drafts for interest, the moneys sufficient to pay such Bonds or checks or drafts will be held by the Trustee, without liability for interest thereon, in a separate account in the Bond Fund; provided that any moneys which will be so held by the Trustee and which remain unclaimed by the Holder of the Bond for a period of four (4) years will be paid to the Bank, unless the Bank confirms to the Trustee in writing that no moneys are due under the Credit Agreement, in which case such moneys will be paid to Borrowers. Thereafter, the Holders will be entitled to look only to the Borrowers for payment and only to the extent of the moneys so paid without any interest thereon.

#### The Trustee

The Trustee will undertake to perform such duties as are specifically set forth in the Indenture. At the time of an Event of Default and during the continuation thereof, the Trustee will exercise such of the rights and powers vested in it by the Indenture, and will use the same degree of care and skill in its exercise, as a prudent man would exercise under the circumstances.

The Indenture provides that the Trustee is entitled to act upon opinions of counsel as specified in the Indenture and is not responsible for any loss or damage resulting from reliance thereon in good faith. In addition, the Indenture provides that the Trustee will be entitled to rely on certain other instruments and it is not liable for any action reasonably taken or omitted to be taken by it in good faith and reasonably believed by it to be within the discretion or power conferred upon it in the Indenture.

#### Extent of Issuer's Covenants: No Personal Liability

All agreements of the Issuer contained in the Indenture are effective to the extent authorized and permitted by applicable law and they are not deemed to be a covenant, stipulation, obligation or agreement of any past, present or future member, official, officer, agent or employee of the Issuer. No official of the Issuer executing the Bonds will be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

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